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S E C R E T SECTION 01 OF 03 TUNIS 002814

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STATE FOR NEA/MAG - HARRIS, S/WCI

E.O. 12958: DECL: 11/27/2016
TAGS: PTER KAWC PHUM PINR PGOV TS
SUBJECT: GOT OUTLINES LEGAL ASSURANCES FOR S/WCI AMB.
WILLIAMSON

Classified By: AMBASSADOR ROBERT F. GODEC FOR REASONS 1.4 (b) AND (d)

¶1. (S/NF) SUMMARY. During his November 15-17 visit to Tunisia, Ambassador-at-Large for War Crimes Issues Clint Williamson met on November 16 with Tunisian Minister of Interior Rafik Bel Haj Kacem and on November 17 with Minister of Justice and Human Rights Bechir Tekkari to discuss the repatriation of Tunisian detainees at Guantanamo. Both ministers said that all Tunisian citizens have the right to return and that Tunisia will accept all twelve detainees. Upon their return, all detainees would be subject to judgment under Tunisian laws and ten have already been charged in absentia for various crimes. The GOT understands its commitments under the Convention Against Torture and has an existing prisoner access agreement with the ICRC. However, neither minister offered assistance with obtaining written assurances, instead recommending the MFA be engaged on this issue. END SUMMARY.

¶2. (C) NOVEMBER 16 MINISTRY OF INTERIOR MEETING PARTICIPANTS:

U.S.

Clint Williamson, Ambassador-at-Large for War Crimes Issues
David Ballard, Deputy Chief of Mission, Embassy Tunis
Christopher Camponovo, Director, NSC
Alan Liotta, Principal Director for Detainee Affairs, DOD
Thomas Monheim, Associate Deputy Attorney General, DOJ
Andrew Morrison, S/WCI Special Advisor
Elizabeth Grimminger, Chief/SIMA
Susannah Cooper, Pol/Econ Deputy, Embassy Tunis (notetaker)

TUNISIA

Rafik Bel Haj Kacem, Minister of Interior and Local Development
Abdallah Hammouda, Director General for Special Services
Ridha Bouribah, Director of International Cooperation
Salma Boudhina, Translator

¶3. (C) NOVEMBER 17 MINISTRY OF JUSTICE MEETING PARTICIPANTS:

U.S.

Clint Williamson, Ambassador-at-Large for War Crimes Issues

David Ballard, Deputy Chief of Mission, Embassy Tunis
Christopher Camponovo, Director, NSC
Alan Liotta, Principal Director for Detainee Affairs, DOD
Thomas Monheim, Associate Deputy Attorney General, DOJ
Andrew Morrison, S/WCI Special Advisor
Susannah Cooper, Pol/Econ Deputy, Embassy Tunis (notetaker)

TUNISIA

Bechir Tekkari, Minister of Justice and Human Rights

Mohamed Lejmi, Attorney General

Lotfi Daouas, Chief of Staff

Jamal Chahloul, Director General for Criminal Affairs

Radhouane Ouerthy, Director General for International Cooperation

Translator

¶4. (S/NF) Ambassador Williamson began both meetings by stressing the importance of closing Guantanamo and working closely with international partners to repatriate their citizens. Amb. Williamson highlighted his discussions with Tunisian Ambassador to the U.S. Nejib Hachana, particularly their November 9 meeting in which Hachana said Tunisia will accept the repatriation of all twelve Tunisian detainees. Amb. Williamson said that he hoped he would be able to obtain the necessary security and humane treatment assurances from Tunisia that would facilitate the December return of the two Tunisian detainees (Mohammed Abdul Rahman and Abdullah bin Omar) approved for transfer.

¶5. (S/NF) REPATRIATION: Both Ministers said that Tunisia must accept the return of the twelve detainees, as this is a right guaranteed by the Tunisian constitution. Tekkari said

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the GOT understands the sensitivity of closing Guantanamo and that Tunisia and the United States share common principles related to human rights protections and related guarantees. The GOT hopes the transfers will be done in stages "for security reasons" and not publicized. Upon their return, the individuals would face appropriate charges in the Tunisian justice system. DG Hammouda had additional questions about the details of the return, such as who would accompany the detainees and if they would be on military aircraft. Liotta replied that the USG was prepared to send two of the individuals back in December and requested that the GOT identify their point of contact for the repatriation so that these issues would be worked out with appropriate parties before the transfer occurred.

¶6. (S/NF) SECURITY ASSURANCES: Minister Bel Haj Kacem told Amb. Williamson that all twelve Tunisian detainees are terrorists and, "Guilty or not, we will monitor them." Minister Tekkari had a detailed chart of charges against the twelve and explained that ten have been convicted in absentia of "very grave charges" and the two others have pending cases. For example, Abdallah bin Omar was sentenced in three cases that resulted in 16 years of jail time and five years administrative parole. While in absentia judgments may be appealed, Tekkari twice noted that he doubted these individuals would be acquitted. Tekkari also said that the repatriated might face additional charges under Tunisia's 2003 Terrorism Law, which allows the prosecution of Tunisians who committed terrorist acts outside of Tunisia. Bel Haj Kacem noted that Rafik al Hami and Hisham Sliti have also been charged in Belgium.

¶7. (S/NF) HUMANE TREATMENT ASSURANCES: Monheim explained to both ministers that the USG is also seeking humane treatment assurances, given U.S. obligations under the Convention Against Torture (CAT). Bel Haj Kacem interrupted to stress that Tunisia understands the obligations of CAT, as it was among the first countries to sign and the first to change domestic law to be in compliance with the CAT. Therefore, humane treatment of the detainees was not a problem. Tekkari

added that Tunisia is also a party to the Optional Protocol and that U.N. officials could visit Tunisia to verify their adherence. He explained that the International Committee of the Red Cross (ICRC) has access to all prisons and all prisoners and could visit individuals "over and over."

¶8. (S/NF) WRITTEN ASSURANCES: Both ministers balked at the request for written assurances, although the delegation explained many other countries had provided them for repatriated Guantanamo detainees and the USG also frequently and routinely provides written assurances. Bel Haj Kacem said that the Tunisian constitution and laws provide all necessary guarantees and that he is surprised the USG wants assurances. He added that his personal opinion, which he shared with unidentified GOT entities, is that Tunisia should not provide any written assurances. Tekkari took a legal tact, saying that putting assurances in writing would contradict or supercede Tunisian law and even suggest that the GOT is not currently respecting the law. When Camponovo explained other countries with similar concerns had provided such assurances by diplomatic note, Tekkari advised the delegation to discuss the issue with the Ministry of Foreign Affairs.

¶9. (S/NF) NEXT STEPS: Both ministers indicated they were unable -- or perhaps unwilling -- to take any action to provide written assurances. Further, as these assurances are likely to be exchanged in a diplomatic note, the MFA is the appropriate interlocutor. Despite DCM's efforts (as Charge), the MFA refused to schedule a meeting with Amb. Williamson. (NOTE: The Minister's Chief of Staff told DCM that the Minister was engaged with the visiting German FM and all MFA Secretaries of State (Deputy FM equivalent) were out of

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Tunisia. He even declined the suggestion that it send representatives to other ministries' meetings. END NOTE.) Therefore, a diplomatic note with revised language that reflects the content of the delegation's meetings in Tunisia will be prepared for transmittal to the MFA. Post will follow up to encourage immediate GOT action to facilitate the earliest return of the two individuals.

¶10. (S/NF) POST COMMENT: Given the noncommittal GOT response
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to numerous demarches on this topic, post has long believed the GOT will not agree to the conditions of repatriating the detainees. While the Tunisian constitution ensures its nationals the right to return, both ministers expressed little interest in having them back. Bel Haj Kacem suggested two be sent to Belgium, if they are wanted there, while Tekkari interjected at one point, "We did not ask for their extradition." This lackadaisical response, combined with the MFA's refusal to involve itself with the delegation, suggests future discussions will continue to be slow moving. If the past is prologue, the lack of GOT interest in repatriating the detainees may bog down the progress indefinitely. END COMMENT.

¶11. (U) Amb. Williamson and delegation have cleared this cable.

¶12. (S) BIO NOTES:

MINISTER OF INTERIOR RAFIK BEL HAJ KACEM: The Minister appeared confident, to the point of being dismissive. He interrupted at times to reject perceived slights, e.g. that Tunisia was not a knowledgeable or responsible partner. His comments followed the standard GOT talking points regarding terrorism, but he delivered them with the conviction one would expect from the Minister of Interior. While praising Tunisia's counterterrorism efforts, he did not make a point to mention President Ben Ali's achievements -- a trait observed in only the most senior of GOT officials. The Minister praised the strong bilateral intelligence

relationship and seemed pleased with the Ministry's relationships with USG counterparts. Bel Haj Kacem appeared to have a limited understanding of English and, frustrated with the interpretation, at one point said he should improve his English. He spoke primarily in the more formal standard Arabic, rather than in the Tunisian dialect.

MINISTER OF JUSTICE BECHIR TEKKARI: Minister Tekkari has held his position since 1999, making him one of the longest serving ministers in Ben Ali's cabinet. In the meeting, he was jovial and relaxed, while taking the matter seriously and considering its legal implications. When necessary, he turned to his staff for necessary details, although their responses were limited and clearly left him in control of the meeting. Tekkari understands English relatively well and requested translation of only a few points, although he feels uncomfortable speaking in English and spoke primarily in French. Highlighting commonalities between the U.S. and Tunisia, Tekkari fondly noted that he learned about Martin Luther King, Jr. from an American teacher of English when he was in high school.

GODEC